

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3863 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

N D GAUR

Versus

DIVISIONAL SECURITY COMMISSIONER

Appearance:

MS KJ BRAHMBHATT for Petitioner

MR JC SHETH for Respondent No. 1, 2, 3, 4

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 07/07/2000

ORAL JUDGEMENT

In this petition under Article 266 of the Constitution the petitioner has challenged the certificate dated 10.4.1991 (Annexure-E), order dated 22.4.1991 (Annexure-G) and further order dated 23.5.1991 (Annexure-H) by which the petitioner was not found fit

for promotion to the post of Assistant Security Commissioner and he was found to be fit for B-2 under Medical category. He was accordingly sought to be decategorised from the afternoon of 10.4.1991. While issuing notice this Court had granted ad-interim relief in favour of the petitioner and ultimately after hearing learned counsel for the parties, on 1.4.1992 this Court (Coram: J.M. Panchal, J) passed an interim order directing the respondent to permit the petitioner to discharge his duties as Inspector during pendency of the petition. Interim relief continued to operate till the petitioner retired on attaining the age of superannuation during pendency of this petition.

Learned counsel for the respondent states that since the petitioner was born in the year 1937 as mentioned in Annexure-H to the petition, the petitioner must have retired on attaining the age of superannuation by now.

In view of the above, this Court does not propose to go into the merits of the contentions raised in the petition or the soundness of the submissions made in the reply affidavit. Suffice it to state that since the petitioner has worked in the post of Inspector pursuant to the interim order passed by this Court which was passed after hearing learned counsel for the parties, in the fitness of things it would be just and proper to dispose of the petition with a direction to the respondent to consider the petitioner as having retired from the post of Inspector in the Railway Protection Force till he attained the age of superannuation. The respondents shall accordingly determine, quantify and pay terminal benefits to the petitioner, if not paid. If the petitioner has not been given benefits as aforesaid so far, the respondent authority shall carry out the aforesaid directions within three months from the date of receipt of a certified copy of the judgement or the writ of this court whichever is earlier.

(M.S. SHAH, J)

(pkn)